

Notice of Allowability

Application No.

10/621,904

Examiner

Vinh T. Luong

Applicant(s)

WILLEMSSEN ET AL.

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3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/6/06.
2. ☒ The allowed claim(s) is/are 1-19 and 23-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20060803.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Vinh T. Luong
Primary Examiner

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 6, 2006 has been entered.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Ms. Beverly M. Bunting on August 3, 2006.

Cancel claims 20-22 drawn to non-elected species with traverse.

4. Claims 1-19 and 23-33 are allowed.

5. The following is an examiner's statement of reasons for allowance: the broadest claim 1 is allowed since claim 1 recites the following limitations:

An electronically controlled pedal assembly with hysteresis comprising:

a housing (12) having a front wall (14) and an arcuate friction wall (18) extending from an edge of said front wall (14) wherein *said friction wall (18) has a radius of curvature centered on a pedal arm pivot point (20)*;

a pedal arm (22) having an upper arm (32) and a lower arm (34) and is rotatably supported at said pedal arm pivot point (20) that is between said upper pedal arm (32) and said lower pedal arm (34) by a mounting means (24) operatively connected to said housing (12);

a hysteresis generating means (38) pivotally attached to said upper pedal arm (32) by a pivot pin (42); and

a spring (46) positioned between said housing (12) and said hysteresis generating means (38), wherein said spring (46) biases said hysteresis generating means (38) against said housing (12), such that depression of said pedal arm (22) compresses said spring (46) while increasing a frictional hysteresis force between said arcuate friction wall (18) and said hysteresis generating means (38) that is translated back through said pedal arm (22) and release of said pedal arm (22) reduces the frictional hysteresis force. (Emphasis and referential characters added).

The closest prior art Heinrich (EP 0 748 713 A2) teaches the invention substantially as claimed. See the rejection under 35 USC 102(e) on page 3 of the Office action on March 7, 2006 and the English translation attached. However, Heinrich's hysteresis generating means 10 is not attached to the upper pedal arm 6 of the pedal 6, 4 *by a pivot pin* as claimed. See pages 7 and 8 of the translation. There is no suggestion to attach Heinrich's hysteresis generating means 10 to the upper pedal arm 6 of the pedal 6, 4 *by a pivot pin*. On the other hand, if one *fixedly* attaches Heinrich's hysteresis generating means 10 to the upper arm 6 by the pivot pin, one would render Heinrich's device to be inoperative for its intended design because the hysteresis generating means 10 would not be able to act as a roller/follower that *freely* slides on a cam surface 9a as described on page 7 of the translation. In summary, Applicant's arguments on pages 18 and 19 of the Amendment filed on June 6, 2006 are persuasive.

The other independent claims 3, 13-15, 23, 25, and 33 require similar limitation "*a hysteresis generating means (38) pivotally attached to said upper pedal arm (32) . . . by a pivot pin (42).*" Therefore, they are allowed for the same reasons set forth above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Staker'336 (friction surfaces 34 and 36), Mannle'867 (hysteresis 40), and Yokochi et al.'419 (friction surfaces 20 and 21).

7. The drawings were received on December 20, 2005. These drawings are accepted by the Examiner.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

August 3, 2006



Vinh T. Luong
Primary Examiner